

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-06-2015

CORAM :

THE HON'BLE MR.JUSITCE V. RAMASUBRAMANIAN
AND
THE HON'BLE MR. JUSTICE T.MATHIVANAN

S.A.Nos. 1299 and 1300 of 2003

And

C.M.P.Nos.11227 & 11228 of 2003,
10558 of 2006, 1365 OF 2008

The Special Tahsildar
Adi Dravida Welfare ,
Tirupattur,
N.A.A. District

... Appellant in both Second Appeals /
Land Acquisition Officer

Vs.

1. T.V.Raju Naidu (dead)

L.Rs notified by counsel

1. R. Venkataraman

2. R. Nandakumar

3. R. Arumugam

4. R. Krishnan

5. R. Selvam

6. R. Saravanan ...Respondent/ Claimant in S.A.1299/03

2. C. Somasundaram (died on 28.5.2012)

L.Rs not brought on record. Respondent/ Claimant in
S.A.1300/2003

Second Appeal filed under Section 13 of The Tamil Nadu
Acquisition of Land for Harijan Welfare Schemes Act, 1978 (T.N.Act
31/78) against the common judgment and Decree of the Sub-ordinate
Judge, Tirupattur made in L.A.A.7 /1997 and 8/1997 dated
12.10.1998 reversing the award made in Award No.6 of 1997-98 dated
31.10.1997 made by the Special Tahsildar (ADW) Tirupattur.

For Appellant : Mr.M.Venugopal,
Special G.P. (Civil Suit)

For Respondents : M/s. V. Ragavachari
V. Srimathi
V. Lakshminarayanan

JUDGMENT

(Judgment of the Court was made by V.RAMASUBRAMANIAN, J.)

These two Second Appeals were filed by the Appellant Land Acquisition Officer, Tirupattur against the common judgment and decree passed by the Sub-ordinate Judge, Tirupattur in L.A.A.no.7 of 1997 and L.A.A. 8 of 1997 dated 12.10.1998. It is seen from the records that the papers in the Second Appeals were presented before this court on 16.4.1999. It was returned by the Registry to the Counsel on 21.4.1999 for complying with certain defects. It is further seen from the records that papers were re-presented finally on 5.4.2002, nearly after a period of three years. Since at the time of admission of filing, there was a delay, the Appellants took out two Applications in CMP No.11114 and 11115 of 2002 to condone the delay. In those two applications, notices were ordered by a Division Bench on 19.9.2002. It was in those Miscellaneous Petitions, notices have been served on the contesting Respondents. Further on 17.7.2003, the delay in filing the Second Appeals were condoned.

2. We have heard Mr.M.Venugopal, learned Special Government Pleader (Civil Suit), for the appellant and Mr.V. Ragavachari, learned counsel appearing for the respondents.

3. It was thereafter the papers were filed by the Registry on 20.10.2003. Thereafter when the matters came up for admission before a Division Bench on 31.10.2003, a request was made by the Counsel for Appellant for an adjournment and it was adjourned by two weeks. Thereafter when the matter came up on 16.3.2004 before another Division Bench, once again a request for adjournment was sought and it was adjourned by another two weeks. There is nothing on record to show that the matters have been admitted by any Division Bench. Though two Miscellaneous Applications were filed by the Appellant in C.M.P. No. 11227 and 11228 for grant of a stay of the operation of the judgment and decree of the lower court, no interim orders were passed.

4. In the meanwhile it is seen that the original Respondent in Second Appeal No. 1300 of 2003 (C.Somasundaram) had filed an Execution Petition before the lower court in E.P.No. 46/1999 to realize its decree and it is stated that because of the pendency of the Second Appeal, the E.P was not taken up. It was at that juncture the said Respondent filed C.M.P.No. 10558 of 2006 seeking for the dismissal of the Second Appeal by contending that due to the pendency of the proceedings, he could not realize the fruits of the order passed by the lower court. After waiting for two more years, he filed another Misc. Petition in C.M.P.No. 1365 of 2008 seeking for fixing an early date for the disposal of the Appeal. Even at the time of filing the said Miscellaneous Petition as per the affidavit, his age was shown as 48 years. Even that petition

was not taken up. Thereafter during October 2014 the Counsel for the Petitioner wrote a letter to the Registry informing about the death of the Respondent (C.Somasundaram) and stated that he died on 28.5.2012. He informed the Registry that no steps were taken by the Appellant to implead the LRs. Even though letters were given to the Registry to list the matter for dismissal as the Appeals have been abated in the absence of LRs not being brought on record, the same was not done. In the operative portion of the letter, the Counsel lamented as follows:-

"It is uncharitable to keep the matter pending for 15 years and deny the landowners of their legitimate entitlements. We have a constitutional duty to uphold the legal rights of these person which cannot be whittled down by inordinate delay on the part of the State."

5. In the case of Second Appeal 1299 of 2003 was concerned, subsequent to the serving of notice in the C.M.P for condoning delay, the sole Respondent T.V.Raju Naidu, s/o. Venkatappa Naidu (who was 72 years at the time of passing of the decree) died and therefore when a vakalat was filed on behalf of the Respondent by the Counsel, it was signed by all his six sons dated 19.6.2006 and received by the Registry on the same day. The Registry did not return the vakalat though it was signed by the LRs of Late Raju Naidu and they were not brought on record. This shows the clear lethargy on the part of the Appellants in not taking proper steps for either bringing the matter before the court for getting appropriate orders for admission and also taking effective steps to bring the LRs on record. Both Second Appeals are deserved to be dismissed on this short ground.

6. Admittedly the lands in question were having Town Survey No.348 to the extent of 3 acres were situated within the Tirupattur (North Arcot District) town limits. In order to provide house sites for the Adi Dravidars living in the Tirupattur village and town limits, the lands were sought to be acquired under the provisions of The Tamil Nadu Acquisition of Land for Harijan Welfare Schemes Act, 1978 (for short Act 31/78) a notice under Sec 4(1) of the Act was issued on 10.9.1996 and enquiry was conducted in the office of the Appellant. In the enquiry, the original Respondents, M/s. Raju Naidu and C.K.C.Somasundaram appeared and objected to the acquisition. Their objections were over ruled and a notice was published in the District Gazette, Vellore on 6.3.1997.

7. The lands in question were registered as government Punja Land in the Land Register. For the purpose of valuing the land, the prescribed authority took note of the sale transactions and called for records from the Sub-Registrar, Tirupattur for the period 1.1.1996 to 28.2.1997. It was found that there were four sale transactions took place during that period. The prescribed

authority rejected two sale deeds by stating that they were recent sale and in respect of one sale deed it was found that the extent of the land was small. In respect of the fourth transaction, it relates to survey no. 3/4, ward no.4, block No. 1 and the extent of the land was 1.05 acres. The land was sold as per the sale deed for a value of Rs.1,52,250/- . It was registered before the Sub-Registrar as document no. 2813/96 dated 17.9.96. Therefore the said land was taken as the data land. The authority fixed the compensation at the rate of Rs.1,50,000 per acre and got the approval of the District Collector. The authority also found that in the land in question there were one well, a pump set and 15 well grown coconuts. Therefore he calculated the compensation payable to the original Respondent which is as follows:-

1. Raju Naidu, Respondent in S.A.No. 1299/2003

1. For land 1.33½ acres @ Rs.1,50,000/-	
Compensation	Rs.2,00,250/-
2. Well and Pump set value Rs.89,674/-	
Half share for the Respondent	Rs. 44,837/-
3. 15 Coconut Trees (@Rs.200/- per tree)	Rs. 3,000/-

Total	Rs.2,48,087/-
15% Solatium	Rs. 37,213/-

Grand Total	Rs. 2,85,300/-

2. C.K.C.Somasundaram

Respondent in S.A.No. 1300/2003

1. For land 1.61¾ acres @ Rs.1,50,000/-	
Compensation	Rs. 2,42,625/-
2. Well and Pump Set value Rs. 89,674	
1/4 th share	Rs. 22,419/-

Total	Rs. 2,65,044/-
15% Solatium	Rs. 39,757/-

Grand Total	Rs. 3,04,801/-

8. Aggrieved by the low compensation, both the Respondents preferred appeals before the Sub-court, Tirupattur under Section 7, Section 9 of the Act 31/78. Their appeals were taken on file as L.A.A.7/97 and 8/97 by the Sub-court and notice was ordered to the Appellant. The Sub-court consolidated both appeals and conducted a joint trial. In the appeals, the Respondent Somasundaram was examined as AW1, one Rukmani was examined as AW2 and the other Respondent Raju Naidu was examined as AW3. On the side of the Appellant, one Jeevan Singh who was the Land Acquisition Officer was examined as RW1. On the side of the Respondents, three documents were filed and they were marked as exhibit A1 to A3. Exhibit A1 was the sale deed given by Rukmani (AW2) and others in

favour of one Rajendran dated 7.2.1997. Exhibit A2 and A3 dated 22.11.1994 were the judgments given in L.O.P.No. 8/92. On the side of the Appellant, four documents were filed and they were marked as Exhibit R1 to R4. The Sub-court on an analysis of the evidence let in both oral and documentary came to the conclusion that the land which was acquired was situated behind CKC Cinema Theatre and they are coming within the Tirupattur municipal limits. It was also situated in the Tirupattur-Tiruvannamalai Road, next to the cinema theatre there was a coconut market and it is near the CKC bus stop. The land acquired was suitable for house sites and there were several residential colonies nearby. It also found that exhibit A2 which is a judgment in L.O.P 8/1992 wherein in respect of land in Sivarajpet (within Tirupattur town) compensation was awarded @Rs.50/- per sq.ft. Since the acquired land is also in the same town, it should also fetch the same compensation but however as the land was situated back side of the theatre and also there were coir factories and coconut mandis, it can be given compensation slightly reducing the compensation given in terms of exhibit A2. On the question of deducting development charges in respect of the acquired land, it found that 20% deduction can be made. It agreed with the Respondent's contention that after deducting 20% value only the appeals were filed and court fees were made. It also found that the sale deed in exhibit A2 in which per plot Rs.96,000/- was paid should be accepted as the basis for compensation. In respect of the value fixed for the coconuts, the Sub-court increased the compensation for the coconut trees from Rs.200/- to Rs.500/- . The sub-court accordingly passed judgment and decree for the following amounts:

1. L.A.A.7/97 (T.V.Raju Naidu)	
19 ½ house plots (per plot Rs.96,000/-)	
Rs.18,72,000/-	
For 15 coconut trees @Rs.500/-	Rs. 7,500/-
15 % solatium	Rs. 2,81,925/-
6% interest from the date of Section 4(1)	
notification till the date of award	Rs. 75,180/-
Total	Rs.22,36,605/-

1. L.A.A.8 /97 (Somasundaram)	
23 house plots (per plot Rs.96,000/-)	
Rs. 22,56,000/-	
15% Solatium	Rs. 3,38,400/-
6% interest from the date of Section 4(1)	
notification till the date of award	Rs. 90,240/-
Total	Rs. 26,84,640/-

9. It is this judgment and decree which are questioned in the Second Appeals. The ground taken by the Appellant is that the compensation fixed is on the high side and the sub-court ought not to have taken into account exhibits A2 and A3. However it should

be noted that it was also a nearby land for which higher compensation is fixed by the same sub-court and there is no reason why the court cannot grant the same compensation. Though the provisions of the Land Acquisition Act, 1894 may not apply to the provisions of Act 31/1978, it must be noted that in respect of fixing the compensation under the Act 31/78, Section 4(ii) itself states that the price paid for similar land in the vicinity in the recent years can be taken into account.

10. We are not persuaded to accept that the sub-court had committed any illegality or irregularity in fixing the compensation. The sub-court correctly found that the land was in Tirupattur municipal town limits and it has become already a developed residential area. It has correctly accepted the evidence in exhibit A2 for which compensation was fixed by the same court in an appeal under the Central Act. The land in question was 100ft away from the land acquired and in respect of taram, quality and soil, it was of the same nature.

11. Under the above circumstances both the appeals lacks in merits and accordingly will stand dismissed. However the parties are allowed to bear their own costs. All the CMPs are closed.

Sd/-

Asst.Registrar (CS V)

/true copy/

Sub Asst. Registrar

To

1. The Subordinate Judge
Tirupattur

2.The Special Tahsildar,
Adi Dravida Welfare ,Tirupattur,
N.A.A. District

Copy to

The Record Clerk,
VR Section, High Court, Madras

1 cc to Mr.V. Raghavachari, Advocate, Sr. 31122

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And C.M.P.Nos.11227 & 11228 of 2003,
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